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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,143	03/06/2001	Ali S. Khayrallah	8194-477	4519
20792	7590	04/14/2006	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC			CORRIELUS, JEAN B	
PO BOX 37428			ART UNIT	
RALEIGH, NC 27627			PAPER NUMBER	
			2611	

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,143

Applicant(s)

KHAYRALLAH ET AL.

Examiner

Jean B Corrielus

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-20, 22, 23, 26-43 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-20 is/are rejected.
- 7) ☒ Claim(s) 22, 23, 26-43 and 45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. A new ground of rejection based on "new guideline" follows. Hence, prosecution is now reopens.

2. Claims 4-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Let's consider claim 4, the claim when taken as a whole is directed to a method of processing a signal. However, a claim directed to signal per se is an abstract idea therefore non-statutory. The Interim Guidelines for examination of Patent Applications for Patent subject matter Eligibility" provides that for claims including such excluded matter to be eligible, the claim must be for a practical application of the abstract idea. The claim fails to provide a practical application of the abstract idea because the claimed invention does not transform an article or physical object to a different state or thing nor the claimed invention otherwise produces a useful concrete and tangible result. Note that the claim fails to provide a practical application that produces a practical result because the final result achieved by the claimed invention is not useful tangible and concrete. Hence it is concluded that the claim is non-statutory.

Claim 12 is likewise rejected.

Claims 3-11 and 13-20 fail to cure the deficiency noted in the base claim, they are likewise rejected.

Claim Objections

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2. The objection to claims 4-20, 22, 23, 26-43 and 45 has been withdrawn in view of the applicant's amendment and /or comment. In addition applicant declines to replace "ones of" by "each" stating that "each" may be interpreted as requiring everyone of the frequency hopping mode to include the following characteristic as opposed to subsets. Therefore, "ones of" is interpreted to mean "subset".

Allowable Subject Matter


4. Claims 22, 23, 26-43 and 45 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is 571-272-3020. The examiner can normally be reached on Maxi-Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jean B Corrielus
Primary Examiner
Art Unit 2637

4-13-06